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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,445	11/12/2003	Mitsutoshi Shinkai	450100-04809	8690

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William S. Frommer, Esq.
FROMMER LAWRENCE & HAUG LLP
745 Fifth Avenue
New York, NY 10151

EXAMINER
WENDMAGEGN, GIRUMSEW

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/706,445

Applicant(s)

SHINKAI ET AL.

Examiner

Girumsew Wendmagegn

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 33-34 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 33 and 34 is drawn to a "program" *per se* as recited in the preamble and as such is non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or

expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim1-34 is rejected under 35 U.S.C. 102(b) as being anticipated by Harradine et al (Pub. No. US 2002/0152082).

Regarding claim1, Harradine et al (hereinafter Harradine) anticipates a content editing assistance system comprising: a mark generator for generating electronic mark data relating to content data; a take-metadata generator for generating a take-metadata file based on the electronic mark data generated for each take; a manager for managing the content data and the take-metadata file relating to the content data as separate files; a list generator for generating electronic-mark-list data based on the take-metadata file; and an editor for editing the electronic-mark-list data (see page3 paragraph 0031-0032).

Regarding claim2, 21, 33, Harradine anticipates a video processing apparatus comprising: a mark generator for generating electronic mark data relating to content data; a take-metadata generator for generating a take-metadata file for each take, based on the electronic mark data (see page7 paragraph 0071 meta data generation processor); and a manager for managing the content data and the take-metadata file relating to the content data as separate files (see page7 paragraph 0073).

Regarding claim3, 22 Harradine anticipates a video processing apparatus according to Claim 2, wherein the content data and the electronic mark data included in the take-metadata file are associated with each other by a time-information code that allows the content data to be identified on a frame basis (see page7-8 paragraph 0075).

Regarding claim4, 23, Harradine anticipates a video processing apparatus according to claim2, wherein the manager records the content data and the take-metadata file on a recording medium as separate files (see page7-8 paragraph 0075).

Regarding claim5, 24 Harradine anticipates a video processing apparatus according to claim2, wherein the take corresponds to an imaging process that is continued from a start to an end of a single recording operation (see page7 paragraph 0072).

Regarding claim6, 25, Harradine anticipates a video processing apparatus according to claim2, wherein, when special content data representing special content is included in the content data, the mark generator generates electronic mark data relating to the special content data (see page4 paragraph 0038).

Regarding claim7, 26, Harradine anticipates a video processing apparatus according to claim 6, wherein the special content data includes flash video data captured with flashing of light (see page4 paragraph 0038).

Regarding claim8, 27, Harradine anticipates a video processing apparatus according to claim6, wherein the special content data includes large-sound-volume audio data recorded at an audio output level exceeding a limit value of audio output level (see page4 paragraph 0038).

Regarding claim9, 28 Harradine anticipates a video processing apparatus according to claim2, wherein the take-metadata file includes the electronic mark data and a time-information code (see page7-8 paragraph 0075).

Regarding claim10, 29 Harradine anticipates a video processing apparatus according to Claim 2, wherein the manager records the content data captured in each take and the take-metadata file relating to the content data together on a recording medium (see page7 paragraph 0073).

Regarding claim11, 30 Harradine anticipates a video processing apparatus according to Claim 2, wherein the manager records the take-metadata file relating to the content data in a region of a recording medium, the region being separate from a region where the content data captured in each take is recorded (see page7 paragraph 0073).

Regarding claim12, Harradine anticipates a video processing apparatus according to claim2, further comprising an imager for capturing the content data (see figure6 element 101).

Regarding claim13, 31 Harradine anticipates a video processing apparatus according to claim2, wherein the electronic mark data includes an index of the content data.

Regarding claim14, 32,34, Harradine anticipates a playback apparatus for playing back content data, comprising: a player for playing back data recorded on a recording medium (see page3 paragraph 0031); and a list generator for generating electronic-mark-list data based on a take-metadata file generated for each take and recorded on the recording medium together with the content data (see page3 paragraph 0031).

Regarding claim15, Harradine anticipates a playback apparatus according to claim14, wherein the take corresponds to an imaging process that is continued from a start to an end of a single recording operation (see page7 paragraph 0073).

Regarding claim16, Harradine anticipates an editing apparatus comprising: an editor for editing electronic-mark-list data that is generated based on a take-metadata file generated for each take and recorded on a recording medium; and a display controller for displaying the electronic-mark-list data (see page3 paragraph 0031).

Regarding claim17, Harradine anticipates an editing apparatus according to claim16, wherein the take corresponds to an imaging process that is continued from a start to an end of a single recording operation (see page7 paragraph 0073).

Regarding claim18, Harradine anticipates an editing apparatus according to claim16, wherein the take-metadata file includes the electronic mark data relating to the content data and a time-information code (see page7 paragraph 0073).

Regarding claim19, Harradine anticipates an editing apparatus according to claim16, wherein the editor generates editing-list data for editing content data, based on the electronic-mark-list data (see page3 paragraph 0031-0032).

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Regarding claim20, an editing apparatus according to claim16, wherein the editor adds electronic mark data to the electronic-mark-list data (see page3 paragraph 0031-0032).

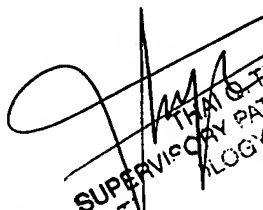
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Girumsew Wendmagegn whose telephone number is 571-270-1118. The examiner can normally be reached on 7:30-5:00, M-F, alr Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tran Thai can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thai Tran

Supervisory patent Examiner


THAI G. TRAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Girumsew Wendmagegn